

### **Remarks**

In the Office Action mailed November 17, 2004, the Applicant respectfully requests reconsideration. For further prosecution of this application, the Applicant submits the following remarks. The claims as presented are believed to be in allowable condition.

In the present application, claims 1-18, 24-40, 46-62, and 69 have been canceled, claims 41, 44, 63, 66, and 68 have been amended and new claims 70-78 been added. Claims 41, 44, 63, and 66 have been amended to replace the term "data structures" with the terms "arrays" and "lists." Support for these amendments may be found on page 8, lines 1-3 of the Specification. It is respectfully submitted that these amendments do not change the scope of the claims as originally filed as the terms "data structure," "array," and "list" are described in the Specification as examples of functional data components for providing an interface between an audio alert triggering event, an audio alert, and a device (See page 8, lines 1-4 of the Specification). Claims 68 has been amended to incorporate the features specified in canceled claim 69. New claims 70-78 specify similar features presented in canceled claims 6-9 and 13-18. No new matter has been added.

Claims 1-69 are currently pending in the application. Claims 1-4, 7-12, 20-26, 29-34, 42-48, 51-56, and 65-67 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shanahan (U.S. Patent 6,496,692). Claims 6, 28, and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shanahan in view of Mäkeläet et al. (U.S. Patent 6,501,967, hereinafter "Mäkeläet"). Claims 13, 15, 35, 37, 57, and 59 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shanahan in view of Kennedy, III et al. (U.S. Patent 6,535,743, hereinafter "Kennedy"). Claims 14, 36, and 58 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shanahan in view of Skorko (U.S. Patent 6,560,466). Claims 16, 38, and 60 are rejected

under 35 U.S.C. § 103(a) as being unpatentable over Shanahan in view of Mulla et al. (U.S. Patent 6,311,896, hereinafter "Mulla"). Claims 5, 17, 18, 19, 27, 39-41, 49, and 61-63 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shanahan in view of Mulla and further in view of Lemelson (U.S. Patent 5,945,656).

### **Election/Restriction Requirement**

In the Office Action, claims 68 and 69 are restricted from the application as being directed to independent or distinct inventions pursuant to 37 CFR §1.142(b) and MPEP §821.03. As a result, claims 1-67 are constructively elected and claims 68-69 are designated as withdrawn. As noted above, claim 69 has been canceled. While Applicant acknowledges the constructive election of claims 1-67, the restriction of claim 68 is respectfully traversed based on the remarks following below.

Claim 68 depends from independent claim 19. As noted in the Office Action, claim 19 is directed toward the combination of a user-programmable audio alert system containing a plurality of audio alert triggering events. Dependent claim 68 specifies that these audio alert triggering events (i.e., the subcombinations) include a ringing signal and an electronic mail message. Thus, it is respectfully submitted that the features of dependent claim 68 are within the scope of independent claim 19 and do not constitute new matter that was not originally presented. Therefore, claim 68 is not independent or distinct from the embodiment of the invention originally claimed in independent 19. Furthermore, even if claim 68 is independent and distinct from claim 19, the addition of this claim does not constitute a serious burden on the Examiner. "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." See MPEP §803.

### **Claim Rejections - 35 U.S.C. §103**

Claims 1-69 are currently pending in the application. Claims 1-4, 7-12, 20-26, 29-34, 42-48, 51-56, and 65-67 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shanahan. As noted above, claims 1-4, 7-12, 24-26, 29-34, 46-48, and 51-56 have been canceled. Accordingly, the rejections of these claims should be withdrawn. Claims 20-23 depend from independent claim 19 and claims 65-67 depend from independent claim 63. Accordingly, the rejections of these claims with respect to Shanahan will be addressed in the remarks addressing the rejection of claims 19 and 63, below.

Claims 6, 28, and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shanahan in view of Mäkeläet. As noted above, claims 6, 28, and 50 have been canceled. Accordingly, the rejections of these claims should be withdrawn.

Claims 13, 15, 35, 37, 57, and 59 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shanahan in view of Kennedy. As noted above, claims 13, 15, 35, 37, 57, and 59 have been canceled. Accordingly, the rejections of these claims should be withdrawn.

Claims 14, 36, and 58 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shanahan in view of Skorko. As noted above, claims 14, 36, and 58 have been canceled. Accordingly, the rejections of these claims should be withdrawn.

Claims 16, 38, and 60 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shanahan in view of Mulla. As noted above, claims 16, 38, and 60 have been canceled. Accordingly, the rejections of these claims should be withdrawn.

Claims 5, 17, 18, 19, 27, 39-41, 49, and 61-63 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shanahan in view of Mulla and further in view of Lemelson. As noted above, claims 5, 17, 27, 39-41, and 49 have been canceled. Accordingly, the rejections of these

claims should be withdrawn. With respect to independent claim 19, the claim specifies a user-programmable audio alert system. The alert system comprises a plurality of audio alerts created by a user; a plurality of data structures, each data structure programmed by a user to detect an occurrence of one of a plurality of distinct audio alert triggering events and relate the one of the plurality of distinct audio alert triggering events to one of the plurality of audio alerts; a device having storage for storing data, the plurality of data structures stored in the device; and the device further comprising an emitter for emitting the plurality of audio alerts; wherein when a particular one of the plurality of distinct audio alert triggering events occurs, the data structure so programmed detects the occurrence of the particular one of the plurality of distinct audio alert triggering events and causes the device to emit the audio alert related to the particular distinct triggering event.

The Shanahan reference discloses a method for programming user-defined information into electronic devices, such as a wireless telephone. According to the method, a user may configure a telephone to play a certain user-defined information file (e.g., a signature file) stored in an alerting circuit (figure 7, element 550) when receiving an incoming call. When a call is received, a processor may instruct the alerting circuit to play the information file through a speaker or a display screen. In the case of a signature file, the processor may route the file to the alerting circuit for storage and subsequent use or to the speaker for immediate or subsequent playback. See Col. 9, lines 61-67 through Col. 10, lines 1-35.

Shanahan, however, fails to teach, disclose, or suggest a system comprising a plurality of data structures programmed by a user to detect the occurrence of a plurality of distinct audio alert triggering events and relate one of the plurality of distinct audio alert triggering events to one of the plurality of audio alerts. Shanahan discloses that a plurality of information files may be

received into a telephone and stored or immediately played back. Shanahan, however, does not disclose multiple distinct audio alert triggering events. At most, Shanahan may imply one audio alert triggering event for playing back a signature file stored in a telephone. Shanahan also fails to disclose a system for relating each of the plurality of distinct audio alert triggering events to a specified audio alert. Thus, for at least the aforementioned reasons, Shanahan fails to teach, disclose, or suggest each of the features specified in independent claim 19.

Mulla, relied upon to cure the deficiencies of Shanahan, merely discloses the integration of a bar code scanner into a cellular telephone (column 12, lines 14-18 and column 9, lines 61-65). Thus, Mulla also fails to teach, disclose, or suggest a system comprising a plurality of data structures programmed by a user to detect the occurrence of a plurality of distinct audio alert triggering events and relate one of the plurality of distinct audio alert triggering events to one of the plurality of audio alerts.

Lemelson, relied upon to cure the deficiencies of Shanahan and Mulla, merely discloses the generation of audio-based product information with respect to a scanned bar code (column 7, lines 20-36). Lemelson, however, fails to teach, disclose, or suggest a system comprising a plurality of data structures programmed by a user to detect the occurrence of a plurality of distinct audio alert triggering events and relate one of the plurality of distinct audio alert triggering events to one of the plurality of audio alerts.

Since neither Shanahan nor Mulla nor Lemelson, alone or in combination, teaches each of the features specified in independent claim 19, this claim is allowable and the rejection of this claim should also be withdrawn. Claims 20-23 depend from independent claim 19 and are thus allowable for at least the same reasons discussed above with respect to claim 19 above including the additional features recited therein. Amended independent claim 63 is directed to similar

novel features as independent claim 19 and is thus allowable for at least the same reasons as claim 19. Claims 65-67 depend from amended independent claim 63 and are thus allowable for at least the same reasons discussed above with respect to claim 63 above including the additional features recited therein. Accordingly, the rejections of claims 20-23 and 65-67 should also be withdrawn.

### **New Claims**

New claims 70-78 depend from amended independent claim 63. Amended independent claim 63 is allowable for the reasons discussed above. Therefore dependent claims 70-78 are allowable for at least the same reasons as amended independent claim 63 including the additional features recited therein.

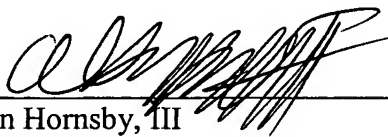
### **Conclusion**

In view of the foregoing amendments and remarks, this application is now in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is invited to call the Applicant's attorney at the number listed below.

Respectfully submitted,

MERCHANT & GOULD

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